

**REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA**

**SPECIAL EDUCATION FOR PUPILS
WITH LEARNING DISABILITIES**



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P-125

Honorable Robert J. Campbell, Chairman
Members, Joint Legislative Audit Committee
State Capitol, Room 2163
Sacramento, California 95814

Dear Mr. Chairman and Members:

Summary The Education Code, Section 56000 et seq., provides for a free and appropriate education for all individuals with exceptional needs, such as learning disabilities, through special education programs to meet those needs. One hundred seventy-nine school districts and county offices of education reported to the California Department of Education (department) that on April 1, 1991, they had 1,358 learning disabled pupils enrolled in nonpublic schools. We surveyed or visited all 179 organizations. We also reviewed data from 145 of these organizations indicating that they had 1,206 pupils enrolled in nonpublic schools on April 1, 1991, for which they paid \$18,584,000 during fiscal year 1990-91. The 145 school districts paid \$18,388,000 (\$15,300 per pupil) to educate 1,198 of those pupils in nonpublic schools in California; they paid \$196,400 (\$24,500 per pupil) to educate the other 8 pupils in nonpublic schools in other states. We estimate that the remaining 34 school districts paid approximately \$1,550,000, raising the total cost of educating learning disabled pupils in nonpublic schools to an estimated \$20,100,000 for fiscal year 1990-91.

Pupils with exceptional needs who are ordered to juvenile hall must also be provided with a free, appropriate education. These pupils are provided special education services in juvenile court schools administered and operated by county offices of education. Data compiled from 42 local plan areas for special education indicate that they spent approximately \$2,570,000 in special education funds during fiscal year 1990-91 to provide special education services for 1,730 pupils in juvenile court schools. Approximately \$2,035,000 of the total was used to provide special education programs for 1,231 pupils with learning disabilities.

Parties to disputes regarding special education decisions have the opportunity to resolve disputes through informal mediation conferences and administrative hearings. The department, through its contractor, administers the system for resolving disputes. During fiscal year 1990-91, the contractor billed the department \$834,000 for mediation conferences and administrative hearings. Also during fiscal year 1990-91, the contractor received 611 requests to resolve disputes. Most of those disputes have been resolved, and 63 were pending at the end of the fiscal year.

Background

The Education Code, Section 56000 et seq., describes the statutory provisions regarding the State's special education programs. The law states that all individuals with exceptional needs, including those who have been ordered into juvenile hall or other similar facilities, have a right to a free public education that meets their needs.

Individuals with exceptional needs are defined as those who are under 22 years of age and who are mentally retarded, hard of hearing, deaf, speech-impaired or language-impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or learning disabled.¹ The law also specifies that

¹Pupils are assessed to be learning disabled when the following conditions exist: there are severe discrepancies between intellectual ability and achievements; the discrepancies are due to disorders in one or more of the basic psychological processes and are not the result of environmental, cultural, or economic disadvantages; and the discrepancies cannot be corrected through the regular instructional program.

individuals with exceptional needs are those whose impairment requires instruction or services, or both, that cannot be provided with modification of the regular school program. The superintendent of public instruction is required to administer the law pertaining to special education for pupils with exceptional needs.

The special education statutes require the governing boards of school districts and county offices of education (public education agencies) to submit to the superintendent of public instruction their local plans for the education of all individuals in the district who have exceptional needs. The plans must describe the special education services to be provided, how the plans will comply with federal and state laws governing special education, and how the plans will be administered. Service areas covered by local plans are known as special education local plan areas (SELPA's).

The law requires that public education agencies establish policies and procedures to identify individuals with exceptional needs, to assess those needs, and to plan instructional programs that best meet those needs. Assessment reports must be prepared in writing, and parents must be notified that they may obtain copies of the reports. Parents who disagree with the findings of public education agencies' assessments may obtain independent educational assessments from qualified specialists.

The law provides public education agencies with various options for implementing these special services. They may provide educational services through resource specialists who meet the instructional needs of special education pupils in coordination with regular classroom teachers during the school day. They may provide intensive instruction in special day classes for pupils whose disabilities preclude participation in regular school programs for a majority of the school day. They may provide specialized instruction designated specifically for such services as language and speech development, adapted physical education, and counseling and guidance. Finally, agencies may provide special education services under contracts with nonpublic, nonsectarian schools when no appropriate public education program is available. These nonpublic schools may be in California or in other states.

The law requires the implementation of an expeditious and effective process for resolving disputes regarding any alleged violations of the statutes and regulations pertaining to special education. Parents and public education agencies who disagree with assessments or with the implementation of special education programs have the right to informal mediation conferences and to fair and impartial administrative hearings to resolve the disagreements.

Parents of pupils in special education programs may be represented by attorneys in mediation conferences and hearings. If parents initiate the use of attorneys, they must bear the costs of that representation. Local education agencies may also initiate the use of attorneys. However, if they initiate the use of attorneys, they must pay costs of attorneys representing the parents up to an amount that does not exceed the amount paid their own attorneys.

County superintendents of schools are required to compute the apportionments of state aid for special education programs in local education agencies. Superintendents are to compute state aid as the sum of costs for instructional personnel services, services in support of classroom instruction, instruction in nonpublic schools, and instructional time in special day classes. The amounts superintendents compute for these elements are reduced by the applicable amounts districts receive in federal funds, local property taxes allocated for special education, and contributions from local general funds. The Governor's Budget for fiscal year 1992-93 indicates that expenditures for special education for fiscal year 1990-91 were \$1.797 billion. The Governor's Budget proposes \$2.018 billion in special education funds for fiscal year 1992-93.

**Scope and
Methodology**

We were asked to provide the Legislature with information regarding the number of pupils with learning disabilities who received special education services in nonpublic schools in California and in other states during fiscal year 1990-91, and we were asked to determine the cost of educating those pupils in nonpublic schools. The Legislature also asked us to provide information on the amount of special education funds spent to

provide special education services to pupils in juvenile court schools and the cost of administering mediation conferences and hearings for special education pupils during fiscal year 1990-91.

To determine the number of learning-disabled pupils educated in nonpublic schools and the cost of educating those pupils during fiscal year 1990-91, we reviewed reports from the 179 school districts and county offices of education reporting to the department that they had pupils enrolled in nonpublic schools on April 1, 1991. We verified the number of learning-disabled pupils those public education agencies had enrolled in nonpublic schools on April 1, 1991. We also reviewed data regarding the amounts public education agencies spent to educate learning-disabled pupils in nonpublic schools in California and in other states. However, because they do not calculate figures for limits to revenues for attendance of pupils with specific disorders, we could not calculate the amounts of federal, state, and local funds they spent during fiscal year 1990-91 to educate pupils with learning disabilities in nonpublic schools.

To determine the amount of special education funds public education agencies spent to educate pupils in juvenile court schools, we sent a survey questionnaire to 104 SELPAs. We asked the directors of these SELPAs to identify the amounts spent to educate all special education pupils in juvenile court schools during fiscal year 1990-91 and the amount spent to educate pupils with learning disabilities. We did not verify the data provided by the SELPAs.

To determine the amount the department spent during fiscal year 1990-91 to ensure that the rights of parents and local education agencies were safeguarded when they engaged in disputes, we interviewed the director of the State's contractor for mediations and hearings. We reviewed invoices and verified the amounts the contractor billed the department to provide staff and services for mediations and hearings. We also reviewed records of the contractor and verified the status of applications for hearings filed during fiscal year 1990-91. We did not determine how much state or local money was spent to pay for attorneys or consultants who

represented public education agencies or parents during mediations and hearings because the department does not maintain records of mediations when attorneys were present to represent the parties. Furthermore, we did not review each of the applications for hearings to determine whether attorneys or consultants represented either party during any stage of the process.

**Cost of
Educating
Learning-
Disabled Pupils
in Nonpublic
Schools**

As a condition of receiving state aid for providing special education services, public education agencies are required to report to the superintendent of public instruction the number of pupils receiving special education services. The Education Code, Section 56728.5, requires public education agencies to report, in April of each year, the count of pupils in special education classes and programs for the spring semester. They report the number of pupils with each of 11 disabilities who are enrolled in special education programs and educational settings. In their reports for April 1, 1991, 179 public education agencies reported that they had 1,358 pupils with learning disabilities enrolled in nonpublic schools.

Of the 179 public education agencies, we visited 21 that reported they had 10 or more learning-disabled pupils in nonpublic schools on April 1, 1991. These 21 agencies accounted for 928 (68 percent) of the 1,358 pupils with learning disabilities reported to be enrolled in nonpublic schools on April 1, 1991. In addition to reviewing the invoices these 21 public education agencies received from the nonpublic schools, we sent survey questionnaires to the other 158 agencies that reported having 9 or fewer learning-disabled pupils enrolled in nonpublic schools as of April 1, 1991.

The 145 public education agencies that we visited or that responded to our survey reported to the department that they had 1,253 learning-disabled pupils enrolled in nonpublic schools on April 1, 1991. However, the data they provided us indicated that they had only 1,206 learning-disabled pupils enrolled in nonpublic schools on April 1, 1991.

Officials of 25 public education agencies from which we obtained data indicated that they had more or fewer learning-disabled pupils enrolled in nonpublic schools on April 1, 1991, than they had reported to the department. We asked officials of those agencies the reasons for the discrepancies, and they indicated that they had inadvertently included in their counts pupils with disorders other than learning disabilities. Other officials indicated that they had inadvertently failed to include all pupils with learning disabilities in their counts.

Public education agencies from which we obtained data indicated that they paid approximately \$18,584,000 during fiscal year 1990-91 to educate the 1,206 learning-disabled pupils in nonpublic schools. Of these 1,206 pupils, 1,198 (99.3 percent) were reported as being enrolled in nonpublic schools in California at a cost of \$18,388,000, or about \$15,300 per pupil during fiscal year 1990-91. Six school districts reported that, during this same period, they paid \$196,400 for pupils enrolled in nonpublic schools in other states, or about \$24,500 for each of the 8 learning-disabled pupils enrolled.

The remaining 34 school districts, which had reported 105 learning-disabled pupils in nonpublic schools as of April 1, 1991, either did not respond to our survey or did not provide reliable data. However, in an attempt to elicit survey responses or to obtain clarification of information provided, we did determine that none of the 34 school districts had placed learning-disabled pupils in nonpublic schools in other states. We estimate that the 34 school districts paid approximately \$1,550,000 to educate their learning-disabled pupils in nonpublic schools, based on the \$15,300 per-pupil cost we identified for nonpublic schools. This estimate, when added to the \$18,584,000 we calculated for the 145 public education agencies, raises the total cost of educating learning-disabled pupils in nonpublic schools to an estimated \$20,100,000 for fiscal year 1990-91.

Based on data reported in the Governor's Budget for fiscal year 1992-93, costs for educating all special education pupils in all programs and instructional settings during fiscal year 1990-91 totaled \$1.797 billion, or about \$3,600 for each of the 497,000 pupils receiving special education services.

**Special
Education
Costs for
Pupils in
Juvenile Court
Schools**

The Education Code, Section 48645 et seq., provides for the administration and operation of public schools in juvenile halls and requires county boards of education to administer and operate these juvenile court schools. The Education Code, Section 56150, requires that special education programs be provided to individuals with exceptional needs who have been placed in juvenile halls.

In our survey questionnaire, we asked administrators of each of the SELPAs to provide us with data regarding the number of pupils who received special education services in juvenile court schools. We also asked how many learning-disabled pupils received special education services in juvenile court schools. In addition, we asked the administrators to provide us with information regarding the amount of special education money spent during fiscal year 1990-91 to provide the services.

Only 42 of the 104 SELPAs we surveyed responded to our request for data. The 42 SELPAs that responded indicated that they spent approximately \$2,570,000 in special education funds during fiscal year 1990-91 to provide special education services to 1,730 pupils in juvenile court schools. According to the 42 SELPAs, approximately \$2,035,000 of the total was spent to educate 1,231 pupils who were learning disabled. Because fewer than half of the SELPAs we surveyed responded, we could not estimate the total cost for educating all special education pupils in juvenile court schools.

**Cost of the
System for
Resolving
Disputes**

The Education Code, Section 56500.2, requires the implementation of a process for resolving disputes about special education decisions. The process provides for parties with disputes to resolve disputes through conferences with mediators. It also provides for the parties to have disputes resolved through fair and impartial administrative hearings.

Parents of pupils in school districts and representatives of school districts who are involved in decisions regarding special education may initiate the process for resolving their disputes. For example, parents may request hearings if a school district refuses to

initiate changes in the assessment results or the educational placement of a child or if it fails to provide a free, appropriate education as required by law. Similarly, a school district may request a hearing if parents refuse to consent to an assessment of their child.


When requests for hearings are filed, informal, nonadversarial conferences are scheduled in an attempt to mediate the disputes. The parties may waive the right to mediation and request that disputes be scheduled for administrative hearings. Disputes may be resolved or dismissed during the mediation process, or they may proceed to hearings if mediation conferences fail. Parties may also withdraw their requests. Decisions of hearing officers may be appealed to the courts for final resolution.

Before September 1, 1989, the department was responsible for administering mediation conferences, and the Office of Administrative Hearings conducted administrative hearings to resolve disputes. However, on September 1, 1989, the department awarded a three-year contract for \$1,762,688 to the Institute for Administrative Justice at the McGeorge School of Law (contractor) to administer mediation conferences and administrative hearings.

For fiscal year 1990-91, the contractor received 611 requests for resolution of disputes. Mediation conferences resulted in the resolution of 293 of the requests and the dismissal of 13 others. Applicants withdrew 155 requests during the mediation process. At the end of fiscal year 1990-91, 52 requests were still in the mediation process and unresolved. The remaining 98 requests resulted in hearings. Eighty-three of those cases were settled or decided, 4 were withdrawn, and 11 were pending at the end of the fiscal year. During the fiscal year, the contractor charged the department approximately \$834,000 to administer the mediation and hearing processes.

We conducted this review under the authority vested in the auditor general by Section 10500 et seq., of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this letter report.

Respectfully submitted,



KURT R. SJOBERG
Auditor General (acting)

Staff: Samuel D. Cochran, Audit Manager
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**Response to
the Audit**

California Department of Education



April 17, 1992

Kurt Sjoberg, Auditor General (acting)
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660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Sjoberg:

Thank you for the opportunity to review the draft letter report titled "Special Education For Pupils With Learning Disabilities". We appreciate the work your staff performed in reviewing the number and associated cost of educating pupils with learning disabilities in nonpublic and juvenile court schools. We will work closely with the local educational agencies to ensure that their pupil counts for learning disabled students are accurately reported.

While your report provides the count of learning disabled students in nonpublic schools on April 1, 1991 as 1,358, the total number of learning disabled students in California public and nonpublic schools on this date was 280,548. Your report identifies the cost of educating less than one-half percent of the total learning disabled student population.

If you have questions, please contact Peggy Peters, Audit Response Coordinator, at 657-4440.

Sincerely,

A handwritten signature in dark ink, appearing to read "William D. Dawson", is written over a horizontal line.

William D. Dawson
Executive Deputy Superintendent

**cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps**